

REMARKS**Election/Restriction**

The Office Action states that “[t]his application contains claims directed to the following patentably distinct species of the claimed invention:

I. Fig. 5 shows a laser device having a tunnel junction structure with p-type tunnel junction layer located between n-type tunnel junction layer and an active layer.

II. Fig. 6 shows a laser device having a tunnel junction structure with n-type tunnel junction layer located between p-type tunnel junction layer and an active layer.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted of no generic claim is finally held to be allowable. Currently, claim 18 is generic.”

Applicants provisionally elect with traverse to prosecute the invention disclosed in Group I, claims 1 and 3-23. Applicants initially note that at least the requirement for election of species regarding Species I and II appears to be improperly drawn. Applicants respectfully disagree with the statement in the Office Action that

I. Fig. 5 shows a laser device having a tunnel junction structure with p-type tunnel junction layer located between n-type tunnel junction layer and an active layer.

II. Fig. 6 shows a laser device having a tunnel junction structure with n-type tunnel junction layer located between p-type tunnel junction layer and an active layer.

Applicants respectfully submit that FIG. 5 and FIG. 6 each show a laser device in which the p-type tunnel junction layer (306) is located between the n-type tunnel junction layer (304) and the active region ((412) in FIG. 5 and (512) in FIG. 6).

Accordingly, the present election requirement for Species I and II is improper and Applicants request its withdrawal. Further, Applicants respectfully request that claims 1-23 be examined.

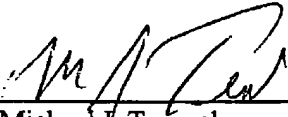
CONCLUSION

Should the Examiner have any comment regarding the Applicants' response or believe that a teleconference would expedite prosecution of the pending claims, Applicants request that the Examiner telephone Applicants' undersigned attorney.

Respectfully submitted,

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